

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service:
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: AUG 20 2015

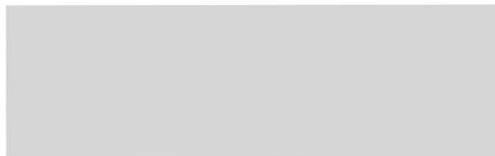
FILE #:

PETITION RECEIPT #:

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center (Director). The petitioner filed an appeal, which is now before the Administrative Appeals Office (AAO). The appeal will be sustained, and the petition approved.

The petitioner, a multinational computer-based data processing company, filed the instant Form I-140, Immigrant Petition for Alien Worker, on September 3, 2014. The petition seeks to permanently employ the beneficiary in the United States as “Director, Technical Project & Portfolio Management,” pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The petition is accompanied by an Application for Permanent Employment Certification, ETA Form 9089, which was filed with the U.S. Department of Labor (DOL) on March 4, 2014, and certified by the DOL (labor certification) on August 7, 2014.

On November 10, 2014 the Director denied the petition on the ground that the beneficiary did not have the requisite education to be eligible for classification as an advanced degree professional and to qualify for the job under the terms of the labor certification.

The petitioner filed a timely appeal with supporting documentation. We conduct appellate review on a *de novo* basis. *See Soltane v. Department of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In this connection we issued a Request for Evidence (RFE) on March 10, 2015, to which the petitioner responded with additional documentation.

Section 203(b)(2) of the Act provides for the granting of preference classification to members of the professions holding advanced degrees whose services are sought by employers in the United States. To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition’s priority date. *See Matter of Wing’s Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The priority date of the instant petition is March 4, 2014, which is the date the underlying labor certification was accepted for processing by the DOL. *See* 8 C.F.R. § 204.5(d). The petitioner must also establish its continuing ability to pay the proffered wage of the job offered from the priority date up to the present. *See* 8 C.F.R. § 204.5(g)(2).

Based on the entire record, including the evidence submitted on appeal and in response to our RFE, we find that the petitioner has established that the beneficiary more likely than not had all the education, training, and experience required to be eligible for classification as an advanced degree professional and to qualify for the job offered under the terms of the labor certification. Therefore, the petitioner has overcome the ground for denial in the Director’s decision. We also determine, based on the evidence of record, that the petitioner has established its continuing ability to pay the proffered wage to the beneficiary from the priority date up to the present. Accordingly, the petition is approved under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), for classification of the beneficiary as an advanced degree professional.

(b)(6)

NON-PRECEDENT DECISION

Page 3

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The appeal is sustained. The petition is approved.